THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.28503 OF 1997

DATED: 07-03-2007

Between:

A. Govinda Rao

.. Petitioner

and

The Union of India, Ministry of Steel and Mines, Sastri Bhavan, New Delhi, represented by its Secretary and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.28503 OF 1997

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ORDER:

This writ petition is filed seeking a mandamus -

(1) declaring the action of the respondents 4 and 5 in negativing the representation of the petitioner, as arbitrary and illegal; and consequently to declare the proceedings No.21(112)/Admn/VRS/Mining/ Vol-IV/881 dated 01.08.1997 of the 4th respondent, as arbitrary and illegal.

(2) To direct the respondents to treat that the services of the petitioner were absorbed in MECL-4th respondent Corporation with effect from 12.10.1989 in the cadre of Assistant Chief Mining Engineer, and grant him all consequential benefits therefrom; and consequently direct the 2nd respondent to pay the pro-rata pension and pro-rata terminal benefits for the services rendered by the petitioner in the 2nd respondent Organization from 22.09.1972 to 11.10.1989, and grant him all consequential benefits accrued thereon, or in alternative

(3) To direct the respondents to count the services of the petitioner as the services rendered in 4th respondent Corporation (MECL) from 22.09.1972 till 31.07.1997 for the purpose of calculating benefits such as EPF, increments, promotion, consequential pay fixations, pay revisions, pension, exgratia etc., including terminal benefits consequent to his voluntary retirement, and pay all the consequent difference amounts within a specified time.

(4) To direct the respondents to treat that the petitioner

was absorbed in the cadre of Assistant Chief Mining Engineer as ordered by the Government of India while approving his absorption, and grant him all consequential benefits accrued therefrom including pay and allowances, promotions, differences of pay and allowances, exgratia, pension, EPF and other monetary benefits basing on that absorption in the cadre of Assistant Chief Mining Engineer.

It appears, the petitioner was appointed as Shift Boss (Class II Gazetted) in Geological Survey of India (for short 'GSI') with effect from 22.09.1972 and he worked there for about five months. Thereafter, he was deputed to work in Mineral Exploration Corporation Limited-4th respondent (for short 'MECL'). He worked there till his repatriation to GSI in the year 1976. However, again, with effect from 23.04.1977, he was re-deputed to 4th respondent Corporation-MECL. He was asked to exercise option for being absorbed on regular basis in MECL. The petitioner, in fact, refused to opt for the services of MECL on permanent basis, since he would loose the pensionery benefits in GSI. However, ultimately, on force and influence exerted by MECL, he opted to be in the service of the said Corporation, and, to that effect, an order was passed on 11.10.1989 absorbing the petitioner on regular basis into the service of the MECL in the capacity of Assistant Chief Mining Engineer with effect from 23.04.1977. Ultimately, the petitioner voluntarily retired from service in the year 1997. Now, the grievance of the petitioner is that the service rendered by him from 22.09.1972 to 22.04.1977 is not counted for the purpose of retiral benefits, by the MECL. In fact, hardly, the petitioner worked for about five months in GSI, immediately after his appointment, and for another six months after his repatriation from MECL in the year 1976. Rest of the period, he worked in the MECL itself. Further, it is the grievance of the petitioner that though, vide orders dated 11.10.1989, he was absorbed into the 4th respondent Corporation-MECL in the capacity of Assistant Chief Mining Engineer, his services were utilized in the capacity of Shift Boss only, by issuing proceedings dated 08.11.1989 to that effect. Therefore, he, not only, lost his promotional avenues in the GSI, but also remained in the basic post in which he was appointed by the GSI in the year

1972.

GSI is a Central Government Department. Likewise, MECL is a Public Sector Undertaking of the Government of India. Whenever there is deputation of personnel from a Government Department to the Public Sector Undertaking or vice-versa, their services are protected for the purpose of salary, retiral benefits and promotion, if any, either in the Department or in the Public Sector Undertaking, but the same is denied in the case of the petitioner.

I am of the considered opinion that the petitioner is not only entitled for absorption as Assistant Chief Mining Engineer with effect from 23.04.1977, as per order dated 11.10.1989, but he is also entitled to compute the service rendered by him from 22.09.1972 to 22.04.1977 for the purpose of retiral benefits, by MECL.

Therefore, the respondents are directed to take into account the service rendered by the petitioner from 22.09.1972 to 22.04.1977 for the purpose of calculating retiral benefits, and also consider that the petitioner is entitled for absorption in the capacity of Assistant Chief Mining Engineer as per the order dated 11.10.1989, and pay all the consequential benefits to him. The respondents shall complete this exercise within a period of four months from the date of receipt of a copy of this order and communicate the same to the petitioner.

With the above directions, the writ petition is disposed of. No order as to costs.

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C.V. RAMULU, J

7th March, 2007.
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